

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

GEARY EDWARD HAMBY, as
Administrator of the Estate of
JENNIFER A. HAMBY,

Plaintiff,

v.

ZURICH AMERICA INSURANCE
COMPANY, CHRISMAN READY-MIX
INCORPORATED and JASON D.
FLANARY, individually,

Defendants.

FILED
MAR 10 2006
William B. Guthrie
Clerk, U.S. District Court
Deputy Clerk

Case No. CIV UO - 098 - SH

COMPLAINT

COMES NOW the above named Plaintiff, GEARY EDWARD HAMBY as the Administrator of the estate of JENNIFER A. HAMBY, (hereinafter referred to as "Plaintiff") and for his cause of action against Defendants, ZURICH AMERICA INSURANCE COMPANY, CHRISMAN READY-MIX INCORPORATED and JASON D. FLANARY, individually, (hereinafter referred to as "Defendants") and states as follows:

THE PARTIES

1. Plaintiff is a resident of the State of Oklahoma.
2. Defendant, Zurich American Insurance Company (Zurich), the liability insurance company for Chrisman Ready-Mix, is a foreign corporation with its principal place of business and state of incorporation being other than the State of Oklahoma. The Defendant, Chrisman Ready-Mix (Ready-Mix), is a foreign corporation with its principal

defendant, Jason D. Flanary ("Flanary"), is a citizen and resident of the State of Arkansas.

JURISDICTION AND VENUE

3. This action is brought pursuant to provisions of 28 USC § 3232 (a). The amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs and is between citizens of different States.

4. Venue is proper under 28 USC § 1391 (a)(2) because a substantial part of events giving rise to this claim occurred within this judicial district.

FACTS

5. On or about October 20, 2005, Jennifer A. Hamby was traveling south bound in the inside lane of US Highway 59,

6. On the above date, Defendant, Flanary, was employed by Defendant, Ready-Mix, and was driving an 18-wheel semi truck and trailer traveling east on State Highway 31. As Flanary approached the State Highway 31 and US Highway 59 junction, Flanary failed to yield to oncoming traffic as he attempted to cross US Highway 59. As a result of this failure to yield, Defendant, Flanary, did negligently, recklessly and carelessly cause his truck to pull out in front of Jennifer A. Hamby and cause Jennifer A. Hamby to strike Flanary's truck. Due to injuries suffered as a result of this accident, Jennifer A. Hamby suffered and died.

7. At all times Defendant, Flanary, was operating his vehicle under the scope and course of his employment with Defendant, Ready-Mix., who is liable under the Doctrine of Respondent Superior. The insurance carrier for Ready-Mix is the defendant Zurich American Insurance Company.

8. The malicious and intentional acts of Flanary which caused the death of Jennifer A. Hamby, consisted of, in part, reckless driving, failure to yield and constituted a threat to human life.

9. As a direct and proximate result of the negligence of Flanary and Ready-Mix, Jennifer A. Hamby suffered fatal bodily injuries, endured considerable physical and mental pain and suffering, all of which will be more particularly proven at trial, and entitle plaintiff to collect an amount in excess of \$75,000.00, from defendants exclusive of interests and costs.

WHEREFORE, premises considered, Plaintiff prays that this Court award actual damages against Defendants in excess of \$75,000.00, punitive damages as allowed by law, interest and costs as allowed by law and such other and further relief to which Plaintiff may be entitled.

Respectfully Submitted,



Michael Burrage, OBA #1350

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**JURY TRIAL DEMANDED
ATTORNEY'S LIEN CLAIMED**